

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

MARK E. ANDERSON,

Plaintiff,

vs.

BITTERROOT HEALTH HOSPICE,  
WEST HILLS ASSISTED LIVING,  
TODD BOHLING, TERRI  
ANDERSON, POLLY ANDERSON,  
BILL ANDERSON, JUDGE  
HOWARD RECHT, SHERIFF, DR.  
COURCHESNE, DR. WOOD, and  
DAN BOWDER,

Defendants.

CV 24–12–M–DLC

ORDER

On March 15, 2024, the Court adopted in full the Findings and Recommendation of Magistrate Judge Kathleen L. DeSoto in this matter, which recommended that the Court: (1) grant Defendant Terri Anderson’s Motion to Reject “Notice of Removal” and Remand DG-2023-35 to State Court (Doc. 14) because Plaintiff’s Notice of Removal does not operate to effect removal of the two state court cases identified therein; (2) dismiss Plaintiff’s Amended Complaint (Doc. 9) with prejudice for failure to state a claim on which relief may be granted; and (3) certify that any appeal would not be taken in good faith, pursuant to Fed. R. App. P. 24(a)(4)(B). (Doc. 28 at 18.) The Clerk of Court entered judgment against

Plaintiff the same day. (Doc. 29.) In the order dated March 15, 2024, the Court also addressed Defendant Terri Anderson's motion for fees and costs associated with seeking to have case no. DG-23-35 remanded to state court. (Doc. 28 at 16.)

The Court concluded that Plaintiff lacked an objectively reasonable basis for removing case no. DG-23-35 from state court because removal by a plaintiff in a state court proceeding into a separate case already pending in federal district court is not permitted under 28 U.S.C. § 1441(a). (*Id.*) Accordingly, the Court found that an award of costs and fees to Defendant Terri Anderson is warranted pursuant to 28 U.S.C. § 1447(c) and requested that Counsel for Defendant Terri Anderson, Daniel Browder of Browder Law PLLC, submit an affidavit of fees before the Court grants the motion. (*Id.*)

Now before the Court is the Affidavit of Daniel Browder RE: Attorney Fees and the associated Invoice. (Docs. 30, 30-1.) According to these documents, Defendant Terri Anderson seeks an award of \$6,325.00 in fees and \$21.64 in costs, for a total of \$6,346.64. (Doc. 30-1.) The Court finds that the fees and costs set forth in Browder's Affidavit and Invoice were reasonably incurred as a result of the removal of case no. DG-23-35.

Accordingly, IT IS ORDERED that Defendant Terri Anderson's Motion for Fees for Remand of DG-2023-35 to State Court (Doc. 25) is GRANTED. Plaintiff shall pay to Defendant Terri Anderson the fees and costs associated with the

removal and remand of case no. DG-23-35 set forth in the Affidavit and Invoice of Daniel Browder (Docs. 30, 30-1), totaling \$6,346.64.

DATED this 1st day of April, 2024.



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Dana L. Christensen, District Judge  
United States District Court